UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,098	10/19/2001	Guy Goldstein	MERCURY.140A1	5353

20995	7590	03/10/2005	

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

EXAMINER
ALAM, UZMA

ART UNIT	PAPER NUMBER
2157	

DATE MAILED: 03/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

Office Action Summary		Application No.	Applicant(s)
		10/038,098	GOLDSTEIN ET AL.
		Examiner	Art Unit
		Uzma Alam	2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *19 October 2001*.
2a) ☐ This action is **FINAL.** 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-27* is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) *1-27* is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on *19 January 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

U.S. Patent and Trademark Office
PTOL-326 (Rev. 1-04)   Office Action Summary   Part of Paper No./Mail Date 03012005

DETAILED ACTION

This action is responsive to the application filed on 10/19/2001. Claims 1-27 are

pending. Claims 1-27 represent a method for monitoring response times.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on
sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-6, a rejected under 35 U.S.C. 102(B) as being anticipated by Barrick, Jr. et al.

US Patent No. 6,006,260. Barrick teaches the invention as claimed including monitoring a

server on a network (see abstract).

As per claim 1, Barrick teaches the method for monitoring performance of a transactional

server as seen by end-users of the transactional server, the method comprising:

executing a transaction between an agent running on a client computer at a remote end-

ser location and a transactional server, wherein the transaction includes a sequence of uniform

resource locator (URL) requests transmitted from the agent to the transactional server over a

network (sending a request from a client to a server; column 2, lines 17-24; column 4, lines 35-

57; column 5, lines 6-21);

measuring time durations between predefined events that occur during execution of the

transaction, the measurements being made by the agent (timing different parameters on the client

by the agent; column 2, lines 1-26, lines 40-53; column 4, lines 36-51); and

using the measured time durations, displaying a break down of time involved in

completion of the transaction into multiple components, including at least a network time and a

server time (relaying the information back to the database and analyzing the information; column

4, lines 60-64; column 8, lines 1-14; column 10, lines 46-55).

As per claim 3, Barrick teaches the method of claim 1, wherein measuring time durations

between predefined events includes measuring a time required to establish an initial connection

between the agent and the transactional server (column 2, lines 40-43; column 7, lines 51-56).

As per claim 4, Barrick teaches the method of claim 1, wherein measuring time durations

between predefined events includes measuring a time duration between the agent sending a first

uniform resource locator (URL) request and receiving an acknowledgement from the

transactional server for the first URL request (column 7, lines 60-63).

As per claim 5, Barrick teaches the method of claim 1, wherein measuring time durations

between predefined events includes measuring a time duration between the agent receiving an

acknowledgement from the transactional server for the first URL request of the transaction and

the agent receiving a first buffer of data (column 2, lines 43-47; column 8, lines 27-31).

As per claim 6, Barrick teaches the method of claim 1, wherein measuring time durations between predefined events includes measuring a time duration between the agent receiving a first buffer of data from the transactional server and the agent receiving a last buffer of data from the transactional server (column 2, lines 48-54; column 8, lines 35-67).

As per claim 9, Barrick teaches the method of claim 1, wherein displaying a break down of time includes displaying an amount of time spent in establishing an initial connection between the client computer and the transactional server (column 2, lines 40-43; column 7, lines 51-56)

As per claim 11, Barrick teaches the method of claim 1, wherein displaying a break down of time includes displaying at least one of the following: a DNS resolution time, a connection time, a client time, and a server/network overlap time (column 4, lines 60-64; column 8, lines 1-14; column 10, lines 46-55).

As per claim 12, Barrick teaches the method of claim 1, further comprising:

executing the transaction from each of a plurality of geographically distributed locations (column 5, lines 36-65; column 6, lines 20-39); and

displaying a break down of at least network time and server time for the transaction from each of the plurality of locations, whereby an administrative user of the transactional server may compare the network and server times for the transaction as seen by end users in each of the plurality of locations (column 5, lines 36-65; column 6, lines 20-39).

As per claim 13, Barrick teaches a system for monitoring performance of a transactional

server as seen from an end user location, the system comprising:

an agent component that communicates with the transactional server over a network to

execute a transaction, and measures time periods between predefined events that occur during

execution of the transaction (column 2, lines 1-26, lines 40-53; column 4, lines 35-57; column 5,

lines 6-21); and

a report generation component that generates a transaction breakdown display based on

the time periods measured by the agent component, the transaction breakdown display

indicating a breakdown of a total transaction response time into multiple components (column 4,

lines 60-64; column 8, lines 1-14; column 10, lines 46-55).

As per claim 14, Barrick teaches the system of claim 13, wherein the multiple

components include a network time and a server time (column 4, lines 60-64; column 8, lines 1-

14; column 10, lines 46-55).

As per claim 18, Barrick teaches the system of claim 13, wherein the transaction

comprises multiple uniform resource locator requests (column 7, lines 63-67).

As per claim 19, Barrick teaches system of claim 13, wherein the agent measures a time

taken to establish an initial connection with the transactional server (column 2, lines 40-43;

column 7, lines 51-56).

As per claim 20, Barrick teaches the system of claim 13, wherein the agent measures a

time duration between the agent sending a first uniform resource locator (URL) request and

receiving an acknowledgement from the transactional server for the first URL request (column 7,

lines 60-63).

As per claim 21, Barrick teaches the system of claim 13, wherein the agent measures a

time duration between the agent receiving an acknowledgement from the transactional server for

a first uniform resource locator (URL) request of the transaction and the agent receiving a first

buffer of data (column 2, lines 43-47; column 8, lines 27-31).

As per claim 22, Barrick teaches the system of claim 13, wherein the agent measures a

time duration between the agent receiving a first buffer of data from the transactional server and

the agent receiving a last buffer of data from the transactional server (column 2, lines 48-54;

column 8, lines 35-67).

As per claim 25, Barrick teaches the method for monitoring performance of a server

system, the method comprising:

receiving data from a plurality of computers in a plurality of geographic locations

indicating time spent by a server in processing transaction requests from each of the plurality of

computers (column 5, lines 36-65; column 6, lines 20-39);

receiving data from the plurality of computers indicating time spent by a network in processing

the transaction requests (column 5, lines 36-65; column 6, lines 20-39); and

generating a report page with graphical representations of the time spent by the server

and the time spent by the network for each of the plurality of geographic locations to facilitate a

determination of whether network and server delays are location dependent (column 4, lines 60-

64; column 5, lines 36-65; column 6, lines 20-39; column 8, lines 1-14; column 10, lines 46-55).

As per claim 26, Barrick teaches the method of claim 25, further comprising receiving

data from the plurality of computers indicative of, and displaying representations of, at least one

of the following: client time, DNS resolution time, connection time, and server/network overlap

time (column 4, lines 60-64; column 8, lines 1-14; column 10, lines 46-55).

As per claim 27, Barrick teaches the method of monitoring performance of a transactional

server as seen from a remote user location, the method comprising:

executing a transaction between a client computer in the remote user location and the

transactional server, wherein the transaction comprises a sequence of URL requests passed from

the client computer to the transactional server over a computer network (sending a request from a

client to a server; column 2, lines 17-24; column 4, lines 35-57; column 5, lines 6-21);

on the client computer, measuring time durations between predefined events that occur

during execution of the transaction (timing different parameters on the client by the agent;

column 2, lines 1-26, lines 40-53; column 4, lines 36-51); and

based on the time durations as measured by the client computer, breaking down a total

execution time of the transaction into multiple components, including at least a network time and

a server time (relaying the information back to the database and analyzing the information;

column 4, lines 60-64; column 8, lines 1-14; column 10, lines 46-55).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

Claims 7, 10, 15, 17 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Barrick US Patent No. 6,006,260 in view of Bryant et al. US Patent No. 6,411,998. Bryant

teaches the invention as claimed including determining Internet delays (see abstract).

As per claim 7, Barrick teaches the method of claim 1. Barrick does not teach wherein

measuring time durations between predefined events includes measuring a time spent by the

agent processing the transaction on the client. Bryant teaches measuring time durations between

predefined events includes measuring a time spent by the agent processing the transaction on the

client. See column 5, lines 16-44. It would have been obvious to a person of ordinary skill in

the art at the time of the invention to combine the measuring times of Barrick with the client

processing time of Bryant. A person of ordinary skill in the art would have been motivated to do

this to include different times to the data collected to have a better data when analyzing response

time (Barrick column 10, lines 60-63).

As per claim 10, Barrick teaches the method of claim 1. Barrick does not disclose wherein displaying a break down of time includes displaying an amount of time spent by the agent processing a transaction on the client computer. Bryant teaches displaying a break down of time includes displaying an amount of time spent by the agent processing a transaction on the client computer. See column 5, lines 16-44. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the measuring times of Barrick with the client processing time of Bryant. A person of ordinary skill in the art would have been motivated to do this to include different times to the data collected to have a better data when analyzing response time (Barrick column 10, lines 60-63).

As per claim 15, Barrick teaches the system of claim 14. Barrick does not teach wherein the multiple components further include a client time. Bryant teaches the multiple components further include a client time. See column 5, lines 16-44. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the measuring times of Barrick with the client processing time of Bryant. A person of ordinary skill in the art would have been motivated to do this to include different times to the data collected to have a better data when analyzing response time (Barrick column 10, lines 60-63).

As per claim 17, Barrick teaches the system of claim 15. Barrick does not teach wherein the multiple components further include a server/network overlap time. Bryant teaches multiple components further include a server/network overlap time. See column 5, lines 16-44. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine

the measuring times of Barrick with the server/network time of Bryant. A person of ordinary

skill in the art would have been motivated to do this to include different times to the data

collected to have a better data when analyzing response time (Barrick column 10, lines 60-63).

As per claim 23, Barrick teaches the system of claim 13. Barrick does not teach wherein

the agent measures a time spent by the agent processing the transaction on the client. Bryant

teaches wherein the agent measures a time spent by the agent processing the transaction on the

client. See column 5, lines 16-44. It would have been obvious to a person of ordinary skill in

the art at the time of the invention to combine the measuring times of Barrick with the client

processing time of Bryant. A person of ordinary skill in the art would have been motivated to do

this to include different times to the data collected to have a better data when analyzing response

time (Barrick column 10, lines 60-63).

Claims 2, 8 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Barrick et al US Patent No. 6,006,260 in view of Quaterman et al US Patent Publication No.

2002/0099816. Quaterman teaches the invention as claimed including monitoring response

times (see abstract).

As per claim 2, Barrick teaches the method of claim 1. Barrick does not teach wherein

measuring time durations between predefined events includes measuring a domain name system

(DNS) lookup time. Quaterman teaches measuring time durations between predefined events

includes measuring a domain name system (DNS) lookup time. See paragraph 0102. It would

have been obvious to a person of ordinary skill in the art at the time of the invention to combine

the measuring times of Barrick with the DNS lookup time of Quaterman. A person of ordinary

skill in the art would have been motivated to do this to include different times to the data

collected to have a better data when analyzing response time (Barrick column 10, lines 60-63).

As per claim 8, Barrick teaches the method of claim 1. Barrick does not teach wherein

displaying a break down of time includes displaying an amount of time spent in resolving a

domain name for the transactional server into an internet protocol address for the transactional

server. Quaterman teaches displaying a break down of time includes displaying an amount of

time spent in resolving a domain name for the transactional server into an internet protocol

address for the transactional server. See paragraph 0102. It would have been obvious to a

person of ordinary skill in the art at the time of the invention to combine the measuring times of

Barrick with the DNS lookup time of Quaterman. A person of ordinary skill in the art would

have been motivated to do this to include different times to the data collected to have a better

data when analyzing response time (Barrick column 10, lines 60-63).

As per claim 16, Barrick teaches the system of claim 15. Barrick does not teach wherein

the multiple components further include a connection time and a DNS resolution time.

Quaterman teaches the multiple components further include a connection time and a DNS

resolution time. See paragraph 0102. It would have been obvious to a person of ordinary skill in

the art at the time of the invention to combine the measuring times of Barrick with the DNS

lookup time of Quaterman. A person of ordinary skill in the art would have been motivated to

do this to include different times to the data collected to have a better data when analyzing

response time (Barrick column 10, lines 60-63).

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barrick et al US

Patent No. 6,006,260 in view of Wang US Patent No. 6,446,28. Wang teaches the invention as

claimed including monitoring response times (see abstract).

Barrick discloses the system of claim 13. Barrick does not teach further comprising a

component that analyzes data collected by the agent component to identify correlations in time

between degradations in transaction response times and degradations in the components of such

transaction response times, to thereby facilitate identification of causes of end user performance

problems. Wang teaches a component that analyzes data collected by the agent component to

identify correlations in time between degradations in transaction response times and degradations

in the components of such transaction response times, to thereby facilitate identification of

causes of end user performance problems. See column 4, lines 48-67. It would have been

obvious to a person of ordinary skill in the art at the time of the invention to combine the

measuring times of Barrick with the determination of degradation time of Wang. A person of

ordinary skill in the art would have been motivated to do this to include different times to the

data collected to have a better data when analyzing response time (Barrick column 10, lines 60-

63).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
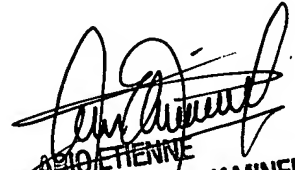
Maccabee et al. US Patent No. 6,108,700

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Uzma Alam whose telephone number is (571) 272-3995. The examiner can normally be reached on Monday-Tuesday 11:30am-8pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Uzma Alam
ua

ARIO ETIENNE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100